

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHRISTO LASSITER,

Plaintiff,

Case No. 1:10-cv-10

vs.

Spiegel, J.
Litkovitz, M.J.

DEVON L. DULLAGHAN, et al.,

Defendant.

REPORT AND RECOMMENDATION¹

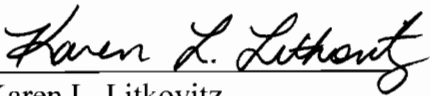
This civil action is before the Court on defendants The City of Cincinnati, Unnamed Officials in the City of Cincinnati Prosecutor's Office, and Unnamed Police Officers' motion to dismiss plaintiff's complaint for lack of jurisdiction and failure to state any claim upon which relief can be granted (Doc. 18), and the parties' responsive memoranda. (Docs. 22, 25).

On November 17, 2010, the Court granted plaintiff's motion for leave to file a third amended complaint, and plaintiff's third amended complaint was filed that same day. (Docs. 47 48). Plaintiff's third amended complaint adds the names of previously unnamed City of Cincinnati Officials and Police Officers. Since an amended complaint supersedes the original complaint and is the "legally operative complaint," *Parry v. Mohawk Motors of Mich., Inc.*, 236 F.3d 299, 306 (6th Cir. 2000), *cert. denied*, 533 U.S. 951 (2001), defendants' motion to dismiss the original complaint should be denied as moot. *See ComputerEase Software, Inc. v. Hemisphere Corp.*, Case No. 1:06-cv-247, 2007 WL 852103, *1 (S.D. Ohio March 19, 2007).

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

Accordingly, it is hereby **RECOMMENDED** that defendants' motion to dismiss (Doc. 18) should be **DENIED** as moot.²

Date: 12/22/2010


Karen L. Litkovitz
United States Magistrate Judge

² On December 17, 2010, defendants The City of Cincinnati, City of Cincinnati Prosecutor Karla Burch, City of Cincinnati Police Officers Wheeler, Neville-Lipps, and Murphy filed a motion to dismiss the third amended complaint in its entirety against the City of Cincinnati defendants. (Doc. 50). Defendants' subsequent motion to dismiss renews the arguments made in its initial motion to dismiss and raises new grounds for dismissal surrounding the newly named City defendants in plaintiff's third amended complaint.

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **14 DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **14 DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

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1:10cv10 (Doc. 51)